## REMARKS/ARGUMENTS

This Amendment accompanies a Request for Continued Examination and addresses issues presented in the Official Action of October 31, 2008 and the Advisory Action of May 1, 2009.

Claims 9-18, "comprising" the stated steps have been deleted leaving the "closed" claims, claims 22 - 31 "consisting of" the recited steps.

The examiner's comments with respect to the dependency of claim 31 have been noted and appropriate changes made to render claim 31 dependent from claim 23 where it finds proper antecedent basis.

Applicants are pleased to note the anticipation rejection has been withdrawn. Applicants also note that a rejection based on the same reference but on alleged "obviousness" has been maintained. In this response applicants wish to focus on the examiner's comments bridging pages 4 and 5 of the Action which in relevant part read as follows:

> However, they also teach that, in the prior art [referencing FR-A-2,444,497 = U.S. 4,569,844], it is disclosed that protein alone can form crosslinked structures (as long as the solution can be kept in an alkaline state) (col. 1, lines 50-56). One would be motivated to generate this microparticular structure in order to obtain a system that would stabilize organic compounds during storage prior to cosmetic or food use. One would have a reasonable expectation of success in that Perrier et al teach that those of skill in this art are aware that these plant proteins will form crosslinked structures and crosslinked structures promote stability for the compounds enclosed within.

Perrier et al refers to a prior art document FR-A-2,444,497 (Perrier et al are French). This French document has a U.S. equivalent U.S. 4,569,844. Unfortunately Perrier et al do not accurately summarize the content of the cited French patent document and this will be apparent from a perusal of the U.S. counterpart.

The examiner states that this document teaches that the protein as such forms cross-linking structures. This is in fact not correct. U.S. 4,569,844 discloses that a hydrophilic protein having a plurality of free amine groups is emulsified and then a at least one compound from the group consisting of di-and –poly basic carboxylic acids, anhydrides and chlorides of such acids

**are added to form a polymer**. There is no indication that a protein as such is crosslinked. There is always a need for a crosslinking agent.

These statements may be confirmed by reviewing claim 1 of the '844 patent, particularly the first few lines of column 9 which includes the step of "adding to the resulting emulsion a solution of a compound selected from the group consisting of dye and poly-basic carboxylic acids, and anhydrides or chlorides of such acids ...". See also a similar discussion at column 4, lines 20-27 as well as other passages in the cited '844 patent.

Clearly the rejections are based upon erroneous content of the passage of the French patent referred to in the Perrier et al reference.

Applicants' claims clearly state that there is no need to add such dye and poly-basic carboxylic acids, anhydrides or chlorides to form a polymer and the claims now under review clearly reflect this fact.

In the Advisory Action of May 1, 2009 the examiner questions the relationship between French patent 2444497 and U.S. patent 4,569,844. To demonstrate this relationship, please see the attached print from the INPADOC patent family for U.S. 4,569,844 and note that French patent 2444497 is from the same patent family as the above-noted U.S. patent as well as British patent no. 2040863.

It is also noted that all the data on the front pages of the relevant patent family members is identical and therefore "authenticity" has been established.

Counsel does not believe that a certified English translation of FR 2444497 is required considering the documented relationship between the U.S., the French and the British patent family members.

Please take this information into account during further examination of this application.

For the above reasons, applicants' claims define subject matter that is inventive over the disclosures of the Perrier et al patent when correctly considered. Reconsideration, entry of this Amendment and allowance are solicited.

Respectfully submitted,

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